1 2	EDMUND G. BROWN JR. Attorney General of California GREGORY J. SALUTE
	Supervising Deputy Attorney General
3	NANCY A. KAISER Deputy Attorney General
4	State Bar No. 192083 300 So. Spring Street, Suite 1702
5	Los Angeles, CA 90013 Telephone: (213) 897-5794 Faccinities (213) 807-3804
6   7	Facsimile: (213) 897-2804 Attorneys for Complainant
8	
9	BEFORE THE BOARD OF PHARMACY
10	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
11	
12	In the Matter of the Accusation Against: Case No. 3302
13	TRACY LYNN STORMS 1307 W. Oak Street
14	Burbank, CA 91506 A C C U S A T I O N
15	Pharmacy Technician Registration No. TCH 76085
16	Respondent.
17	
1/	
18	
	Complainant alleges:
18	Complainant alleges:  PARTIES
18 19	
18 19 20	PARTIES
18 19 20 21	PARTIES  1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
18 19 20 21 22	PARTIES  1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
18 19 20 21 22 23	PARTIES  1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  2. On or about May 9, 2007, the Board of Pharmacy (Board) issued Pharmacy
18 19 20 21 22 23 24	PARTIES  1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  2. On or about May 9, 2007, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. 76085 to Tracy Lynn Storms (Respondent). The Pharmacy
18 19 20 21 22 23 24 25	PARTIES  1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  2. On or about May 9, 2007, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. 76085 to Tracy Lynn Storms (Respondent). The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought
18 19 20 21 22 23 24 25 26	PARTIES  1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  2. On or about May 9, 2007, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. 76085 to Tracy Lynn Storms (Respondent). The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2010, unless renewed.

#### **JURISDICTION**

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

#### STATUTORY PROVISIONS

- 4. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.
  - 5. Section 4059, subdivision (a) states, in pertinent part:

"A person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7."

- 6. Section 4300 provides, in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.
  - 7. Section 4301 of the Code states:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

Unprofessional conduct shall include, but is not limited to, any of the following:

"(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

"(j) The violation of any of the statutes of this state, or any other state, or of the United States regulating controlled substances and dangerous drugs.

- "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency."
  - 8. Section 4060 of the Code states, in pertinent part:

"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor

## REGULATORY PROVISIONS

9. California Code of Regulations, title 16, section 1770, states:

"For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare."

#### **COST RECOVERY**

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

#### CONTROLLED SUBSTANCES

11. Hydrocodone combined with acetaminophen is a Schedule III narcotic substance pursuant to Health and Safety Code section 11056(e)(4). Vicodin and Norco are trade/brand names for the combination drugs containing hydrocodone and acetaminophen. Hydrocodone is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

///

///

# STATE DRUG STATUTES

- 12. Health and Safety Code section 11007 states that "'[c]ontrolled substance,' unless otherwise specified, means a drug, substance, or immediate precursor which is listed in any schedule in Section 11054, 11055, 11056, 11057, or 11058."
  - 13. Health and Safety Code section 11173 states, in pertinent part:
- "(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact."
  - 14. Health and Safety Code section 11350, subdivision (a), states:

"Except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison."

#### FIRST CAUSE FOR DISCIPLINE

# (Committed Dishonest Act)

- 15. Respondent is subject to disciplinary action under section 4301, subdivision (f), in conjunction with California Code of Regulations, title 16, section 1770, on the grounds of unprofessional conduct, in that Respondent committed an act involving dishonesty, as follows:
- Goodman Pharmacy in Hollywood, California, Respondent took one bottle containing 94 tablets of Hydrocodone Bitartrate and Acetaminophen 10mg-325 mg. from her place of employment, without her employer's consent and without a prescription. When confronted by Raquel Sperrazzo, the managing pharmacist for Jeffrey Goodman Pharmacy, Respondent admitted taking the bottle. Respondent led Ms. Sperrazza to the parking lot to Respondent's vehicle. Respondent opened the driver's door and reached in to the center console and recovered a bottle of

Hydrocodone Bitartrate and Acetaminophen 10 mg - 325 mg. Respondent was arrested by the Los Angeles Police Department. No court action was pursued.

# SECOND CAUSE FOR DISCIPLINE

## (Possession of Controlled Substance and Dangerous Drug)

- 17. Respondent has subjected her license to disciplinary action under section 4301, subdivision (o), on the grounds of unprofessional conduct, as follows:
- a. Respondent violated section 4060 of the Code, in that on or about November 12, 2007, Respondent took Hydrocodone Bitartrate and Acetaminophen, a controlled substance, from her place of employment, without a prescription, as set forth in paragraph 16, above.
- b. Respondent violated section 4059, subdivision (a), of the Code in that on or about November 12, 2007, Respondent took Hydrocodone Bitartrate and Acetaminophen, a dangerous drug, from her place of employment, without a prescription, as set forth in paragraph 16, above.

## THIRD CAUSE FOR DISCIPLINE

# (Violation of State Laws Regulating Controlled Substances)

- 18. Respondent has subjected her license to disciplinary action under section 4301, subdivision (j), on the grounds of unprofessional conduct, as follows:
- a. Respondent violated Health and Safety Code section 11350, subdivision (a), in that on or about November 12, 2007, Respondent possessed the controlled substance, Hydrocodone Bitartrate and Acetaminophen, without a prescription, as set forth in paragraph 16, above.
- b. Respondent violated Health and Safety Code section 11173, in that November 12, 2007, Respondent took the controlled substance, Hydrocodone Bitartrate and Acetaminophen, from her place of employment, without her employer's consent, as set forth in paragraph 16, above.

### PRAYER.

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Pharmacy Technician Registration No. 76085, issued to Respondent;

- 1	
1	2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
2	enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3	3. Taking such other and further action as deemed necessary and proper.
4	DATED: 10/27/09 (kigina kild
5	VIRGINIA HEROLD  Executive Officer  Poord of Phormson
6	Board of Pharmacy Department of Consumer Affairs State of California
7	Complainant
8	LA2009602881
10	60447520_2.doc
11	
12	
13	
14	
15	
16	
17	
18	
1,9	
20	
21	
22	
23	
<ul><li>24</li><li>25</li></ul>	
26	
27	
28	